

file

BEFORE THE
STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS

Investigation on Motion of the Department)	
of Natural Resources of an Alleged Unlawful)	
Repair and Maintenance of a Boathouse on)	Case No. 3-NW-92-66047
the Bed of Long Lake, Washburn County,)	
Wisconsin, by Mark Rausch and Thomas and)	
Judith Terhorst)	

STIPULATION AND ORDER

Staff of the Department of Natural Resources (Department) allege that Mark Rausch, Route 1, Dallas, Wisconsin 54733, performed repairs in excess of 50% of the assessed value of a boathouse structure on the bed of Long Lake Town of Madge, Washburn County, Wisconsin. Subsequent to the alleged repairs of this boathouse structure, the property where the boathouse is located was purchased by Thomas and Judith Terhorst, 1821 Eastwood Lane, La Crosse, Wisconsin 54601.

Pursuant to due notice a hearing was scheduled for September 24, 1996 in Spooner, Wisconsin, before Mark J. Kaiser, Administrative Law Judge.

In accordance with secs. 227.47 and 227.53(1)(c), Stats., the parties to this proceeding are certified as follows:

Wisconsin Department of Natural Resources, by

Attorney Michael Cain
P. O. Box 7921
Madison, WI 53707-7921

Thomas and Judith Terhorst, by

Attorney Peter M. Reinhardt
Bakke & Norman Law Offices
P. O. Box 280
Menomonie, WI 54751-0280

At the outset of the hearing, Thomas and Judith Terhorst, by their attorney, stipulated that the following order relating to the boathouse structure which was the subject of this hearing may be issued on the condition that the Department issue a permit for the pier and

cribbing underlying the boathouse. On November 12, 1996, the Department issued a permit authorizing the pier and cribbing. Accordingly, pursuant to stipulation the following order is issued.

ORDER

The reconstruction and maintenance of the boathouse structure located on the bed of Long Lake, at the NE 1/4 of the SW 1/4 of Section 25, Township 38 North, Range 11 West, Town of Madge, Washburn County, Wisconsin constitutes a violation of sec. 30.121, Stats., and pursuant to sec. 30.294, Stats., is declared to be a public nuisance. Thomas and Judith Terhorst shall remove the boathouse structure by March 1, 1997.

Dated at Madison, Wisconsin on November 19, 1996.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
5005 University Avenue, Suite 201
Madison, Wisconsin 53705
Telephone: (608) 266-7709
FAX: (608) 267-2744

By 
MARK J. KAISER
ADMINISTRATIVE LAW JUDGE

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NOTICE

Set out below is a list of alternative methods available to persons who may desire to obtain review of the attached decision of the Administrative Law Judge. This notice is provided to insure compliance with sec. 227.48, Stats., and sets out the rights of any party to this proceeding to petition for rehearing and administrative or judicial review of an adverse decision.

1. Any party to this proceeding adversely affected by the decision attached hereto has the right within twenty (20) days after entry of the decision, to petition the secretary of the Department of Natural Resources for review of the decision as provided by Wisconsin Administrative Code NR 2.20. A petition for review under this section is not a prerequisite for judicial review under secs. 227.52 and 227.53, Stats.

2. Any person aggrieved by the attached order may within twenty (20) days after service of such order or decision file with the Department of Natural Resources a written petition for rehearing pursuant to sec. 227.49, Stats. Rehearing may only be granted for those reasons set out in sec. 227.49(3), Stats. A petition under this section is not a prerequisite for judicial review under secs. 227.52 and 227.53, Stats.

3. Any person aggrieved by the attached decision which adversely affects the substantial interests of such person by action or inaction, affirmative or negative in form is entitled to judicial review by filing a petition therefor in accordance with the provisions of sec. 227.52 and 227.53, Stats. Said petition must be filed within thirty (30) days after service of the agency decision sought to be reviewed. If a rehearing is requested as noted in paragraph (2) above, any party seeking judicial review shall serve and file a petition for review within thirty (30) days after service of the order disposing of the rehearing application or within thirty (30) days after final disposition by operation of law. Since the decision of the Administrative Law Judge in the attached order is by law a decision of the Department of Natural Resources, any petition for judicial review shall name the Department of Natural Resources as the respondent. Persons desiring to file for judicial review are advised to closely examine all provisions of secs. 227.52 and 227.53, Stats., to insure strict compliance with all its requirements.